

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

*Durham County v. AmerisourceBergen  
Drug Corporation., et al.* (No. 19-op-  
45346)

MDL No. 2804

Case No. 1:17-md-2804

Judge Dan Aaron Polster

**PLAINTIFF DURHAM COUNTY'S UNOPPOSED MOTION TO SEVER  
DEFENDANTS CAREMARK, L.L.C., AND PROCARE PHARMACY DIRECT, L.L.C.**

Plaintiff Durham County hereby moves to sever Defendants Caremark, L.L.C. ("Caremark") and ProCare Pharmacy Direct, L.L.C. ("ProCare Direct") from Track Ten. ProCare and Omnicare do not oppose this Motion. In further support of this Motion, Plaintiff states as follows:

1. Caremark and ProCare Direct are defendants in *Durham County v. AmerisourceBergen Drug Corporation., et al.* (No. 19-op-45346).
2. During a status conference on April 7, 2021, the Court selected the *Durham County* case as one of five new litigation tracks involving retail pharmacy defendants (specifically Track Ten). (Doc. 10 3685 at 1.) On May 19, 2021, Plaintiff filed an amended complaint that included Caremark and ProCare Direct as defendants. (Doc. 3740.)
3. Severance of Caremark and ProCare Direct from Track Ten is appropriate. The claims against Caremark and ProCare Direct (which concern dispensing by specialty pharmacies) involve different types of transactions than the claims against the retail pharmacy defendants (which concern distribution to, and dispensing by, retail pharmacies). Accordingly,

there are factual and legal differences between the claims against Caremark and ProCare Direct, on the one hand, and the claims against retail pharmacy defendants, on the other hand. Accordingly, severance of Caremark and ProCare Direct from Track Ten would facilitate judicial economy by, among other things, reducing the number of factual and legal issues to be presented at trial.

WHEREFORE, Plaintiff respectfully requests that the Court grant this Motion and sever Caremark and ProCare Direct from Track Ten.

Date: August 31, 2021

Respectfully submitted,

/s/ Michael J. Fuller, Jr.

Michael J. Fuller, Jr.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August 31, 2021, the foregoing was filed using the Court's CM/ECF filing system and will be served via the Court's CM/ECF filing system on all attorneys of record.

/s/ Michael J. Fuller, Jr.  
Michael J. Fuller, Jr.